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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/858,390	05/16/2001	Carol Lynn Ainsworth	DN2001102	3431
7590 12/02/2003				
The Goodyear Tire & Rubber Company Patent & Trademark Department -D/823 1144 East Market Street Akron, OH 44316-0001			EXAMINER NGUYEN, THUKHANH T	
			ART UNIT 1722	PAPER NUMBER

DATE MAILED: 12/02/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	09/858,390	AINSWORTH ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Thu Khanh T. Nguyen	1722	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

1) ☐ Responsive to communication(s) filed on \_\_\_\_.

2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.

3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

4) ☒ Claim(s) 6-18 is/are pending in the application.

4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.

5) ☐ Claim(s) \_\_\_\_ is/are allowed.

6) ☒ Claim(s) 6-18 is/are rejected.

7) ☐ Claim(s) \_\_\_\_ is/are objected to.

8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

9) ☐ The specification is objected to by the Examiner.

10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
       Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
       Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. §§ 119 and 120**

12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
       a) ☐ All    b) ☐ Some \* c) ☐ None of:  
           1. ☐ Certified copies of the priority documents have been received.  
           2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.  
           3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.  
       a) ☐ The translation of the foreign language provisional application has been received.

14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

**Attachment(s)**

1) <input type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). ____
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) ____	6) <input checked="" type="checkbox"/> Other: <i>JP 63-270121</i> .

**DETAILED ACTION**

***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 6, 11-13, and 18 are rejected under 35 U.S.C. 102(b) as being anticipated by the Japanese reference (63-270121).

The Japanese reference teaches a device for molding bent hose, comprising a base section, or a connective member (1, 11), a pair of opposing engaging sections (2, 4, 22, 23), which engaged each end of the hose and curved each end into a desired shape, or the shape to be formed (translation, page 1, lines 1-4), a mandrel section (3) is integrally formed in one of the engaging sections, and the engaging sections are secured to the base section by a pin (8); wherein the base section comprises a position adjusting means for changing the position of the first engaging section and the second engaging section, which enable the device to reshape a hose having different shapes of curvature and different lengths (translation, page 1, 2<sup>nd</sup> paragraph).

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 7, 9-10 and 14-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over the Japanese reference ('208).

The Japanese reference discloses a mandrel section (3) having a curved shape to bent the hose at one end, while the other end is clamped to the base. The Japanese reference also teaches that the device could be used to shape both ends of the hose, wherein each engaging section is secured to the base section by a pin, and the base member could either be a combination of a horizontal part and a movable vertical part, or a pyramidal base having changeable inclined pyramid surfaces (translation, page 4).

However, the Japanese reference fails to disclose that the bending device having curved mandrel at both ends of the engaging sections that are threaded onto the base rod.

It would have been obvious to one of ordinary skill in the art at the time the applicant's invention was made to modify the Japanese reference by providing an additional curved mandrel on the other end of the base section and threaded the engaging sections to the base, because the additional curved mandrel would enable the bending device to shape both end of the hose at the same time; while the threaded means such as a bolt or a screw could be used because the threaded bolt or screw are usable in alternative to the pin to secure the engaging sections into the base and to disengage the connection when the engaging sections are moved to different position along the base.

5. Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over the Japanese reference ('121) in view of Usui (4,080,141).

The Japanese reference discloses two engaging sections to shape two ends of a hose as described above, but the Japanese reference fails to disclose a hollow tube located between the free ends of the opposing legs, or the engaging sections.

Usui discloses an apparatus for bending pipe, comprising a pipe end's engaging sections (32) and a hollow tube formed by two members (363, 372) for holding and shaping the pipe in between the engaging sections.

It would have been obvious to one of ordinary skill in the art at the time the applicant's invention was made to modify the Japanese reference by providing a hollow holding tube in between the engaging sections, or the opposing legs, as taught by Usui, because the hollow tube would support the hose in between the opposing legs and would reshape the hose if so desired.

#### *Response to Arguments*

6. Applicant's arguments filed August 21, 2003 have been fully considered but they are not persuasive.

The Applicants have argued that the Japanese reference does not teach the use of both legs for reforming the hose ends. The examiner respectfully disagrees. The Japanese reference teaches that the ends of the hose could be shaped into any desired shape, or shape to be formed, at the first and second engaging sections (translation; page 1, first paragraph); that are adjustable relative to the base by a pin (translation, page 1, 2<sup>nd</sup> paragraph).

Because the Japanese reference disclose that the hose could be shaped at both engaging sections, it would have been obvious to one of ordinary skill in the art at to provide an additional

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shaped mandrel at the second engaging section in order to reshape the second end of the hose into a desired shape.

The applicants further alleged that the Japanese reference fails to disclose that “[t]here is no teaching or suggestion of a threaded attachment of the legs 2 and 4 into the bracket such that the spacing between ends of the legs is adjustable.” However, the Japanese reference does teach that the base section is equipped with a position adjusting means for changing the relative position of the first engaging section and of the second engaging section. Therefore, the pin 8 engages and disengages the legs to the bracket and is equivalent to the threaded means in the current invention.

7. In response to applicant's argument that Usui patent 4,080,14 is nonanalogous art, it has been held that a prior art reference must either be in the field of applicant's endeavor or, if not, then be reasonably pertinent to the particular problem with which the applicant was concerned, in order to be relied upon as a basis for rejection of the claimed invention. See *In re Oetiker*, 977 F.2d 1443, 24 USPQ2d 1443 (Fed. Cir. 1992). In this case, both Usui and the Japanese reference are related to a reshaping of a plastic hose, pipe, or tube. Therefore, they are in the same field.

The Applicant asserted that Usui's chucks 32 are not comparable to the mandrel legs, and the structures 362 and 372 are pusher and receiver mold halves that are not located between the free ends of chucks 32 as claimed. However, the chucks 32 clamps the mandrel 1 at both ends, in which the bending pipe is supported by the mandrel. The structures 362 and 372 form a hollow tube for holding and shaping the pipe in between the clamping chucks. Therefore, this structure is comparable and equivalent to the hollow tube as claimed in the current invention, in

which "[t]he tube is an external mandrel into which the hose is placed to shape or support the central portion of the hose..."

*Conclusion*

8. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thu Khanh T. Nguyen whose telephone number is 571-272-1136. The examiner can normally be reached on Monday- Friday, 6:30-4:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wanda L Walker can be reached on 703-308-0457. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.


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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0661.

TN



ROBERT DAVIS  
PRIMARY EXAMINER  
GROUP 1300 / 200  
11/25/03